

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION

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3			
4	UNITED STATES OF AMERICA,)	3:14-CR-340-K
5	Government,)	
6)	
7	VS.)	DALLAS, TEXAS
8	TREVEON DOMINIQUE ANDERSON)	
9	and JIMMY HATCHETT,)	
10	Defendants.)	October 22, 2018

TRANSCRIPT OF PRETRIAL HEARING
 BEFORE THE HONORABLE ED KINKEADE
 UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

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24 Proceedings reported by mechanical stenography and
25 transcript produced by computer.

1 PRETRIAL HEARING - OCTOBER 22, 2018

2 P R O C E E D I N G S

3 THE COURT: Okay. We've got the case of United
4 States of America versus Treveon Dominique Anderson and Jimmy
5 Hatchett, Cause Number 3:14-CR-00340-K and multiple defendants
6 in that. This is Number 9 and 13.

7 Set for trial today. We're about to begin.

8 Mr. Walt Junker, Mr. Jason Ibrahim, and
9 Mr. John de la Garza are all here for the Government, and y'all
10 are ready?

11 MR. JUNKER: The Government is ready, Your Honor.

12 THE COURT: All right. And Mr. E.X. Martin is here
13 for Mr. Anderson, and you're ready?

14 MR. MARTIN: Yes, Your Honor, along with Carolyn
15 Hill.

16 THE COURT: And also Ms. Hill is here with you?

17 MR. MARTIN: Yes, she's here.

18 MS. HILL: We're ready, Your Honor.

19 THE COURT: And then Mr. Rogers and Mr. Lund are here
20 for Mr. Hatchett, and y'all are ready?

21 MR. ROGERS: Yes, Your Honor.

22 MR. LUND: Yes, Your Honor.

23 THE COURT: Okay. Great.

24 Let's go over these motions in limine that I've got.
25 I've got both the motions and the response.

1 The Government wants me to deny a number of these.
2 Let me go over those.

3 So both sides agree to Number 1, so I grant that.
4 And then motive or state of mind. I'm granting
5 Number 2.

6 Number 3. I grant Number 3.
7 Scientific expert testimony.

8 Help me understand, Mr. Rogers, what you're talking
9 about.

10 Oh, Mr. Lund, you're going to do it? Okay.

11 MR. LUND: If I may, Your Honor.

12 Having looked at the case substantially more since
13 this motion was filed, I now think that Number 4 is probably
14 irrelevant given the fact I don't believe there's any
15 scientific evidence that Defendant Hatchett is --

16 THE COURT: Okay. Well, I'm not granting that, then.
17 Okay.

18 And then Number 5. So you're going to offer
19 statements but not through live witnesses. Is that what you're
20 going to do, Mr. Junker?

21 MR. JUNKER: No, Your Honor. I think that we only
22 intend to call live witnesses, but what we would suggest for
23 this one is if the Court carry it with the trial. We don't
24 think that a separate hearing is necessary to prove up
25 conspiracy, so that we have two trials in one.

1 THE COURT: Well, this was making reference maybe to
2 some statements that -- not from live witnesses. Man.

3 MR. JUNKER: Well, for example, Your Honor, in the
4 conspiracy I could see one of our co-conspirators being called
5 to testify and they had a meeting, I think the evidence will
6 show, prior to coming up to Dallas where they discussed what
7 each person was going to be doing. That all goes to the
8 knowledge of each person and their agreement, what they were
9 agreeing to as part of the conspiracy.

10 THE COURT: Okay.

11 MR. LUND: And, Your Honor, again, there's a
12 difference between "We had a meeting, and we all agreed to
13 this" as opposed to "We had a meeting, and this individual
14 person said this, this, and this and said the Defendant's role
15 would be this and this."

16 To me there's a general and a more specific, and my
17 concern is through either a co-conspirator that they are
18 planning on calling or the case agent in particular saying what
19 he has heard during the course of the investigation or a
20 co-conspirator blurting out along the way in the midst of a
21 long answer something to the effect of this specific statement
22 was said by this other out-of-court witness. And that's --
23 that's the reason for the issue, Judge.

24 THE COURT: Made in front of him or not in front of
25 him?

1 MR. LUND: Either, frankly, because I believe the
2 evidence will show there were two or three separate cars that
3 went up from Houston to Dallas. And off the top of my head,
4 I'm not sure which co-conspirator they're going to be calling
5 and which car he was in and if he's going to say something that
6 was in another car. So the answer is, Judge, I could foresee
7 either, and I don't know.

8 MR. JUNKER: That's partly true, Judge, but what we
9 are more focused on is, again, there were meetings down in
10 Houston where virtually everyone was present where they
11 discussed the fact, for example, "We're going to use a" --

12 THE COURT: Okay. There was a key little word there
13 that you said, "virtually." That means either they are or they
14 aren't.

15 MR. JUNKER: It's my understanding they all were
16 present.

17 THE COURT: Well, you're going to have to make that
18 clear.

19 MR. JUNKER: I understand.

20 THE COURT: At the time.

21 MR. JUNKER: Yes, through the questioning of the
22 witness.

23 THE COURT: And if they're there, then I'll let it
24 in. If they're not, they can't. So it's not -- that word
25 "virtually" is a key word.

1 MR. JUNKER: I apologize, Your Honor.

2 THE COURT: And so if they're not there, don't --
3 don't do it. And I don't want to hear what the agent says
4 somebody told him that somebody might have said at some other
5 time and some other place. I don't want to hear all that.

6 MR. JUNKER: I understand.

7 THE COURT: Okay. So I'm going to deny that.
8 And I'm assuming all of the motions apply.

9 MR. JUNKER: Yes.

10 THE COURT: Why is this thing ringing? Where's
11 Ronnie? I don't know. But, anyway, we'll get to it in a
12 minute. We'll get that fixed.

13 Summary evidence. You got some kind of chart or
14 something you're going to offer?

15 MR. JUNKER: We do have summary charts, Your Honor.
16 They've been turned over to the defense along with the
17 underlying data. It all pertains to phone records and cell
18 phone analysis -- cell tower analysis, rather.

19 MR. LUND: Your Honor?

20 THE COURT: Yes.

21 MR. LUND: I think I might be able to make this one
22 easier. At the time this was written we did not have those
23 charts.

24 THE COURT: You've got them all now?

25 MR. LUND: We've got them now. I don't believe

1 there's a summary chart that the Government has told us about
2 that Defendant Hatchett is going to be objecting to. I can't
3 speak for Defendant Anderson, but we're fine with what --

4 THE COURT: Y'all have got them?

5 MR. MARTIN: We're fine, yes.

6 THE COURT: Okay. All right. Then I'm denying that.
7 I think that's it. I think that's it.

8 Now, let's see. The Government has got some motions?

9 MR. JUNKER: Your Honor, I believe all the
10 Government's motions have been resolved. They're unopposed
11 on -- there's two things that are unopposed and one that is
12 opposed.

13 THE COURT: Okay. which one is opposed?

14 MR. JUNKER: Okay. The very first one is actually
15 kind of two motions in limine in one. I apologize, Your Honor.
16 I should have separated it out.

17 But it's my understanding that as to Defendant
18 Hatchett there's no opposition to a motion in limine regarding
19 a post-arrest interview that he gave that was audio and
20 videotaped, that they don't oppose that. But the first motion
21 also seeks to prevent them from offering the same thing we were
22 just discussing, hearsay testimony of non-testifying
23 co-conspirators, because we don't believe there's an exception
24 when offered by the other --

25 THE COURT: Ronnie, this thing is ringing when

1 everybody talks. Just sit here a minute and you'll hear it.

2 THE COURTROOM DEPUTY CLERK: Okay.

3 MR. JUNKER: And the last motion in limine just dealt
4 with approaching the bench before going into priors or
5 uncharged conduct of witnesses.

6 THE COURT: And you don't --

7 MR. JUNKER: I don't believe -- that's not opposed.

8 THE COURT: They don't oppose that.

9 Okay. Well, I'm granting the ones that are
10 unopposed, obviously.

11 MR. LUND: Your Honor, actually, it is unopposed, but
12 I want to state something a little more clear --

13 THE COURT: Okay. Great.

14 MR. LUND: -- than Mr. Junker made, if I may.

15 The agreement with regards to the post-arrest
16 interview of Mr. Hatchett is such that both the Government and
17 Defendant Hatchett, I believe Defendant Anderson, as far as I
18 know, have all agreed not to bring up in any way the fact that
19 there was a post-arrest interview or any of the statements that
20 were elicited from that interview. And as long as the
21 Government is not going to bring it up, the defense is quite
22 all right not bringing it up. And that's the agreement, is my
23 understanding, with Mr. Junker.

24 MR. JUNKER: And there's only one exception to that,
25 which is booking information, for example, names, cellular

1 telephone number, address, that kind of stuff.

2 MR. LUND: I agree with that exception, Judge.

3 THE COURT: Okay.

4 MR. LUND: But that's the agreement that's Number 1.

5 THE COURT: Okay. And if you're going to change that
6 or something changes, Mr. Junker, and you need to do that --

7 MR. JUNKER: We would approach.

8 THE COURT: -- just let me know and we'll approach,
9 okay?

10 So what about the Number 1? Do we still have some
11 problem with Number 1, the Government's motion?

12 MR. JUNKER: Your Honor, that might be better carried
13 with the trial, because I think that, as I understand it, after
14 talking with Mr. Lund this morning, his concern would be when
15 the case agent testifies.

16 Is that fair?

17 MR. LUND: Yes. That is my primary concern on that.

18 MR. JUNKER: Okay. And I think that we -- once we
19 have his direct testimony, I think we can -- it will be easier
20 to address this.

21 THE COURT: Okay.

22 MR. JUNKER: It may fall by the wayside.

23 THE COURT: Okay. So I'm not granting it.

24 MR. JUNKER: Okay.

25 THE COURT: Okay. Anything else?

1 MR. LUND: Your Honor, briefly, my understanding of
2 the Court's preference is that when a side is objecting during
3 the direct examination the Court prefers the attorney that is
4 doing the cross-examination to be the one that objects; is that
5 correct?

6 THE COURT: It's not a preference. That's just the
7 rule.

8 MR. LUND: Apologies, Your Honor. I want to make
9 sure that rule is invoked. And speaking of rules, I want to
10 make sure --

11 THE COURT: I mean, no, and I'm not going to have any
12 lawyers in the back of the courtroom that think they ought to
13 be objecting either. So, you know, no. whoever -- that works
14 for both sides. If you're going to question the witness,
15 you've got to make the objections.

16 MR. LUND: Yes, Your Honor.

17 THE COURT: So --

18 MR. LUND: In addition, I would ask if we were going
19 to invoke the rule. I believe the Government has agreed to it.

20 MR. JUNKER: No objection.

21 THE COURT: Okay. Then the rule is invoked.

22 MR. LUND: Thank you, Judge.

23 THE COURT: Now, that does not mean because you've
24 got two sets of lawyers -- I mean lawyers for one defendant and
25 lawyers for the other defendant that you don't -- that they

1 can't make objections as they want for themselves. It's not
2 that. It's that Mr. Martin and Ms. Hill can't alternate back
3 and forth. And, Mr. Lund, you and Mr. Rogers can't alternate
4 back and forth of who's questioning. But, yeah, Mr. Martin can
5 make an objection, even though you're the one, you know,
6 questioning, whatever, because it affects his client. So he
7 can do that.

8 Okay. Anything else, Mr. Junker?

9 MR. JUNKER: I just wanted to put on the record, Your
10 Honor, in particular regarding the co-conspirators, as well as
11 the other Government witnesses, we've instructed them not to
12 bring up any prior uncharged conduct, criminal convictions,
13 et cetera, unless they're asked a question that directly uses
14 the word "crime" or "jugging" or something like that. We've
15 informed counsel of that.

16 MR. LUND: We appreciate that, Judge.

17 THE COURT: Okay. Now, I'm going to do the voir
18 dire, but here's the way I do it. I don't think -- y'all
19 picked juries with me before, but I've sort of done something a
20 little different recently, and that is this. And y'all have
21 given me what questions you want to ask, and I'll ask the ones
22 that I think that are appropriate, and the ones that I don't, I
23 won't -- is that when anybody raises their hand, we'll talk to
24 them individually. So I'll give you every chance when they
25 come up here to question them however you want to question

1 them, and we'll do it that way. That way there won't be
2 somebody in the back of the Court, one of the prospective
3 jurors, one of the venire persons start preaching and then
4 affect everybody and we'd have to start all over again. So
5 this is my way of kind of preventing that. And it will happen
6 anyway.

7 Sure as the world, somebody is going to stand up and
8 go, "Let me just tell you, when I was in the Marines, I
9 think" -- I don't want to hear that. But I promise you, I
10 do -- I've sat through lots and lots of sermons, so I kind of
11 know when the preacher starts. So I'll be ready and watching
12 them for that.

13 Okay. Now, what are we doing on the IT part of it?
14 Have y'all worked that out?

15 Ms. Hill, are you doing y'all's, or is it all going
16 to go through the Government's experts?

17 MR. MARTIN: If something comes up, I'll be happy to
18 do it. Right now I don't have anything in particular to offer.

19 THE COURT: That you'd have to worry about?

20 MR. MARTIN: Correct.

21 THE COURT: Okay. And y'all, I know, know what
22 you're doing, so it will be good.

23 Is this young lady somebody new that we're training?

24 MS. LEE: Yes, Judge. Let me introduce one of our
25 future law students, Alexandria Bowles. But she will be

1 applying to law school. So in the meantime, we're having some
2 real live experience here.

3 THE COURT: Oh, that's great. That's great.

4 well, is she going to help you with keeping up with
5 the exhibits and things or just observe?

6 MS. LEE: Oh, my stars. She has earned the stripes,
7 let me tell you. It's been a busy, busy few weeks.

8 THE COURT: Oh, well good. Well, I'm glad that, you
9 know, she's got a good teacher. That will be great.

10 MS. LEE: Thank you, Judge.

11 THE COURT: Is this -- this is -- when you're a real
12 lawyer, real lawyers sometimes don't want to do some of these
13 things. These are the things real lawyers should know how to
14 do. And it will be -- it will be good for you to learn all
15 those things just like it will be good for you to do your own
16 investigating when you get to be a real lawyer, not that these
17 folks aren't experts, but you need to go out and make sure
18 before you put somebody on the stand, you know, what's going
19 on, okay? Especially in civil cases. So you'll see that if
20 you decide not to be a prosecutor and you go somewhere and you
21 want to make a living, get rich.

22 okay. All right. Anything else from y'all,
23 Mr. Junker?

24 MR. JUNKER: Judge, we've reached a number of
25 stipulations on exhibits as far as foundation. And I believe

1 we're going to pre-admit the videos of the robbery, but we can
2 address that after jury selection.

3 THE COURT: Do you want to just go through all that
4 and we'll have it all done?

5 MR. JUNKER: I think we're still --

6 THE COURT: Are you working on the list right now?

7 MR. JUNKER: Yes, Your Honor.

8 THE COURT: Okay. If you'll get that done, we'll try
9 to do it before the jury gets up here, but if not, so be it.
10 And we'll just go through that after a break, before we start
11 the trial.

12 MR. JUNKER: I think it would be easier after a
13 break, if that would be all right with the Court.

14 THE COURT: Okay. That will be great.

15 MR. LUND: If you want us to wait to do that as well,
16 then that's fine, but we can do ours very quickly.

17 THE COURT: Yeah, why don't y'all do that.

18 MR. LUND: Defendant Hatchett has four exhibits, DX
19 101 through 104. The Government has agreed to pre-admit all of
20 those, and we'd ask that they be offered and accepted into
21 evidence.

22 MR. JUNKER: That's correct, Your Honor.

23 THE COURT: All right. Then they are admitted into
24 evidence. Okay.

25 (Defendant's Exhibit Nos. 101-104 received)

1 MR. JUNKER: And the same will be true of the
2 exhibits for Mr. Anderson as well. I think there's two at the
3 last count.

4 E.X.?

5 (Pause)

6 MR. JUNKER: Well, we'll deal with that later, Your
7 Honor.

8 THE COURT: Okay. Y'all can come up with that later,
9 Mr. Martin, if you want to.

10 MR. MARTIN: Be fine.

11 THE COURT: Okay. But everybody needs to know, even
12 though you pre-admit, if you don't use it, it's not part of the
13 trial. You've got to make sure that you use it at some point,
14 because if it's not referenced or used in front of the jury,
15 then it's not going to be -- so even though I say it's
16 pre-admitted, it's not admitted-admitted. I kind of sound like
17 double-secret probation in Animal House or something. But it's
18 not really part of the record unless you make reference.

19 So somebody is keeping a record on your side?

20 MR. JUNKER: Yes, Your Honor.

21 THE COURT: Great.

22 MR. LUND: Yes, Your Honor.

23 THE COURT: Okay. Thank y'all.

24 MR. JUNKER: And, Your Honor, I just want to
25 double-check my understanding of that, too. It's my

1 understanding also that if all sides agree to stipulate, for
2 example --

3 THE COURT: That's fine.

4 MR. JUNKER: -- that that's okay then for it to go
5 back?

6 THE COURT: Yeah, I'm okay with that.

7 MR. JUNKER: Even if not used?

8 THE COURT: Even if it's not used. If y'all all
9 agree, that's fine with me.

10 MR. JUNKER: Thank you, Your Honor.

11 THE COURT: But we probably should make some
12 reference to the jury and say that to them so they'll go, "we
13 didn't see that during the trial." I just need to say to them
14 or give them a stipulation or something, let them know what's
15 going on.

16 MR. JUNKER: Thank you, Your Honor.

17 THE COURT: You bet.

18 Anything else that y'all need before we get the
19 jurors up here -- the prospective jurors up here?

20 And y'all will move around to this side. And I think
21 that will be better.

22 And we figured out what -- we've got one venire
23 person in a wheelchair.

24 MR. JUNKER: Okay.

25 THE COURT: So we'll deal with that appropriately,

1 Number 3, so they'll be out of order. And everybody needs to
2 know that. They'll be seated out of order, okay?

3 Ronnie, where are you going to put them?

4 THE COURTROOM DEPUTY CLERK: At the end here on the
5 front.

6 THE COURT: On the front?

7 THE COURTROOM DEPUTY CLERK: Yes, sir, and right at
8 the end.

9 THE COURT: So when you make everybody step over
10 everybody else, the way we normally do it, you're not going to
11 do that with them.

12 THE COURTROOM DEPUTY CLERK: No, sir.

13 THE COURT: Have them come in last, okay? I don't
14 mean last of everybody, but just last of that little row.

15 Okay. Anything else?

16 MR. JUNKER: Not from the Government, Your Honor.

17 THE COURT: Okay. Great.

18 And I'm assuming opening statements -- we were going
19 to make opening statements?

20 MR. DE LA GARZA: I'll make the opening statement for
21 the Government, Your Honor.

22 THE COURT: Mr. de la Garza, you're doing
23 criminal-criminal stuff now, not civil-criminal stuff, right?

24 MR. DE LA GARZA: Double-secret criminal stuff.

25 THE COURT: There it is. We're glad to have you.

1 How about y'all? Going to make opening statements?

2 MR. ROGERS: I'll be opening, Your Honor.

3 THE COURT: Okay.

4 MR. MARTIN: And I would --

5 THE COURT: You'll wait and let us know?

6 MR. MARTIN: Yes. Thank you.

7 THE COURT: Okay. That's fine, too.

8 All right. Okay. I think that's everything. If
9 there's something else, I haven't thought of what it is.

10 MR. LUND: Your Honor, in terms of length of opening
11 statement, I was wondering if the Court had guidance on that.

12 THE COURT: How long do y'all want?

13 MR. ROGERS: Your Honor, I don't believe we will need
14 more than ten minutes.

15 MR. DE LA GARZA: That's acceptable to the
16 Government, Your Honor, no more than ten minutes.

17 THE COURT: That's great. Okay.

18 Oh, for those of you who haven't had trials in here,
19 you cannot do the State court thing, which is get in the jury,
20 with the jury, and kind of sit there with them and touch them
21 and feel them. No, no, we're not doing that. You've got to
22 stay touching the podium. We'll turn the podium around, but if
23 you're not touching the podium, you're too far away.

24 And the acoustics are terrible in hear, and so you
25 need to make sure that you stay where the microphone will pick

1 you up so that people can hear you.

2 And, no, you can't do -- I had a lawyer bring in
3 Stretch Armstrong. Y'all remember that toy? Remember his arms
4 would reach forever --

5 MR. JUNKER: Yeah.

6 THE COURT: -- so he could get close to the jury.

7 If y'all have arms like that, I might let you do it
8 then, but I doubt that you do. But I still have my little
9 Stretch Armstrong in here that somebody gave to me as a result
10 of that.

11 So I can't think of anything else. Y'all are all
12 experienced trial lawyers, so you don't need a bunch of
13 instructions from me.

14 MR. JUNKER: Your Honor --

15 THE COURT: Oh, do y'all need -- are y'all set up in
16 the conference room, somebody?

17 MR. ROGERS: Yes, Your Honor, we are.

18 THE COURT: Y'all are?

19 MR. ROGERS: Yes. Thank you.

20 THE COURT: Okay. And y'all -- you need a conference
21 room up here?

22 MR. DE LA GARZA: We've been provided one, Your
23 Honor. We've checked it out. We don't have anything moved in
24 yet, but it's --

25 THE COURT: And you're okay?

1 MR. DE LA GARZA: Yes, Your Honor.

2 THE COURT: And you can set it up, make it into a war
3 room, whatever you need to do.

4 MR. DE LA GARZA: Thank you, Your Honor.

5 THE COURT: It's just -- at the end of the evening if
6 you've brought food in, clean it up. That's all I ask.

7 And try not to -- I've had different groups
8 actually -- I don't know what happened, but broke the glass on
9 top of the -- I know. It's kind of strange. I don't know what
10 was going on in there. Maybe there was some pounding on the
11 table or something.

12 okay. I think that's it. Y'all have got your lists
13 of the prospective jurors.

14 And then when we come up here in front of me, I'll
15 have a person standing here facing Todd so that he can get
16 everything. And one set of y'all stand here, one set of y'all
17 stand right there, and let's just make sure they're constantly
18 talking right into that.

19 So usually the prosecutors will stand over here, and
20 then you'll move around when you're questioning so that they're
21 always facing Todd. That will be kind of the thing that works.
22 And then the other lawyer can stand over here, and y'all can
23 talk back and forth or, you know, whatever. But let's just
24 make sure all these folks are -- and that will probably take
25 some period of time to get that all done since y'all aren't

1 going to be doing your other voir dire.

2 Okay. Anything else?

3 All right. Anything from the Government?

4 MR. JUNKER: Not from the Government, Your Honor.

5 Thank you.

6 THE COURT: Okay. Well, y'all just -- as soon as we
7 get the jury up here, then we'll do it, okay?

8 Thank y'all.

9 off the record.

10 (Discussion off the record)

11 (Recess from 9:42 to 10:18)

12 THE COURT: Hold up a minute before y'all bring them
13 in, David.

14 Let me tell you something. On this kidnapping issue,
15 I don't see it. I'm willing to let it go to the jury, but the
16 odds of me -- I mean, I'm not necessarily willing to let it go
17 to the jury. I'll let you try it, and we'll see, but I just
18 don't see that it amounts to kidnapping. So I'll probably take
19 it away before it goes to the jury. Y'all just need to be
20 aware of that. I just don't see -- I've already ruled that way
21 in a very similar case involving -- I believe it's called
22 jugging, where someone was locked in the back of a room, I
23 think were the facts. I'm trying to remember right now. But I
24 just don't see that that amounts to kidnapping. I mean, I
25 think this is a stretch. So, anyway, you just need to be

1 prepared for that, okay?

2 MR. JUNKER: Understood, Your Honor.

3 THE COURT: Do y'all understand?

4 MR. ROGERS: Yes, Your Honor.

5 MR. LUND: Yes, Your Honor.

6 (Pretrial hearing concluded)

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1 I, TODD ANDERSON, United States Court Reporter for the
2 United States District Court in and for the Northern District
3 of Texas, Dallas Division, hereby certify that the above and
4 foregoing contains a true and correct transcription of the
5 proceedings in the above entitled and numbered cause.

6 WITNESS MY HAND on this 10th day of July, 2019.

7
8
9 /s/Todd Anderson

10 TODD ANDERSON, RMR, CRR
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